

Please ADD the following section in the RFP to read:

**35.25**

**PROCUREMENT AUTHORITY**

The Judicial Branch Procurement Code (“The Code”) governs this procurement and is incorporated by this reference. Any protest concerning this request for proposals must be filed with the Procurement Officer as follows:

1. Filing of a Protest.
  - A. Any interested party may protest a request for proposal issued by the Judicial Branch, or the proposed award or the award of a Judicial Branch contract.
  - B. Content of protest. The protest shall be in writing and shall include the following information:
    1. The name, address and telephone number of the protester;
    2. The signature of the protester or its representative;
    3. Identification of the purchasing agency and the request for proposal number;
    4. A detailed statement of the legal and factual grounds of the protest including copies of relevant documents; and,
    5. The form of relief requested.
2. Time for Filing Protests.
  - A. Protests concerning improprieties in a solicitation. Protests based upon alleged improprieties in a solicitation that are apparent before the request for proposal opens shall be filed before the request for proposal opens. Protests based upon alleged improprieties in a request for proposal that are apparent before the request for proposal closes shall be filed before the request for proposal closes. In procurements requesting proposals, protests concerning improprieties that do not exist in the initial solicitation but that are subsequently incorporated into the solicitation shall be filed by the next closing date for receipt of proposal following the incorporation.
  - B. In cases other than those covered in subsection (A) of this rule, protests shall be filed within ten days after the protester knows or should have known the basis of the protest, whichever is earlier with the Procurement Officer.
  - C. The protester shall give notice of the protest to the Court Administrator for General Jurisdiction Trial Courts within a reasonable time.
  - D. If the protester shows good cause, the Procurement Officer of the contracting agency may consider any protest that is not filed timely.
  - E. The Procurement Officer shall immediately give notice of the protest to all interested parties.
    1. Stay of Procurements during Protest. If a protest is filed before the award of a contract or before performance of a contract has begun, the award may be made or contract performance may proceed, unless Court Administrator for General Jurisdiction Trial Court stays the contract award or performance on determining in writing that there is a reasonable probability that the protest will be sustained or that stay is not contrary to the best interests of the Judicial Branch.
    2. Confidential Information.

- A. Material submitted by a protester shall not be withheld from any interested party except to the extent that the withholding of information is permitted or required by law as determined pursuant to ARS Section 41-2533(D) or 41-2534(D)
  - B. If the protester believes the protest contains material that should be withheld, a statement advising the Procurement Officer of this fact shall accompany the protest submission.
- 3. Decision by Procurement Officer.
  - A. The Procurement Officer of the purchasing agency shall issue a written decision within 14 days after a protest has been filed. The decision shall contain an explanation of the basis of the decision and a statement that the decision may be appealed to the Court Administrator for General Jurisdiction Trial Court within five days from receipt of the decision.
  - B. The Procurement Officer shall furnish a copy of the decision to the protester, by certified mail, return receipt requested, or by any other method that provides evidence of receipt.
  - C. The time limit for decisions set forth in subsection A of this section may be extended by the Court Administrator for General Jurisdiction Trial Court for good cause for a reasonable time not to exceed 30 days. The Court Administrator for General Jurisdiction Trial Court shall notify the protester in writing that the time for the issuance of a decision has been extended and the date by which a decision will be issued.
  - D. If the Procurement Officer fails to issue a decision within the time limits set forth in subsection A and C of this section, the protester may proceed as if Procurement Officer had issued an adverse decision.
- 4. Remedies.
  - A. If Procurement Officer of the purchasing agency sustains the protest in whole or part and determines that the request for proposal award does not comply with the procurement statutes and regulations, the officer shall implement an appropriate remedy.
  - B. In determining an appropriate remedy, Procurement Officer shall consider all the circumstances surround the procurement or proposed procurement including, but not limited to, the seriousness of the procurement deficiency, the degree of prejudice to other interested parties or to the integrity of the procurement system, the good faith of the parties, the extent of performance, costs to the government, the urgency of the procurement, and the impact of the relief on the purchasing agency's mission.
  - C. An appropriate remedy may include one or more of the following:
    - 1. Decline to exercise an option to renew under the contract;
    - 2. Terminate the contract;
    - 3. Amend the solicitation;
    - 4. Issue a new solicitation;
    - 5. Award a contract consistent with procurement statutes and regulations;
    - or
    - 6. Such other relief as is determined necessary to ensure compliance with procurement statutes and regulations.
- 5. Appeals to the Court Administrator for General Jurisdiction Trial Court.
  - A. An appeal from a decision entered or deemed to be entered by the Procurement Officer shall be filed with the Court Administrator for General Jurisdiction Trial Court within five days after the date the decision is received. The appellant shall also file a copy of the appeal with the Procurement Officer.
  - B. Content of Appeal. The appeal shall contain: 1)The information set forth in paragraph 1 above, including the identification of protected information in the manner set forth above; 2) A copy of the decision of the Procurement Officer; and, 3) The precise factual or legal error in the decision of the Procurement Officer from which an appeal is taken.
- 6. Notice of Appeal

- A. The Court Administrator for General Jurisdiction Trial Court shall immediately give notice of the appeal to interested parties.
  - B. The Court Administrator for General Jurisdiction Trial Court shall upon request furnish copies of the appeal to those named in the appeals subject to E.2.A above.
- 7. Stay of Procurement During Appeal
  - A. If a stay was issued pursuant to E.1 above, the filing of an appeal shall automatically continue the stay unless the Court Administrator for General Jurisdiction Trial Court makes a written determination that the award of the request for proposal without delay is necessary to protect substantial interests of the Judicial Branch.
- 8. Judicial Branch Report.
  - A. The Procurement Officer shall file a complete report on the appeal with the Court Administrator for General Jurisdiction Trial Court within ten days after the date the appeal is filed. At the same time, the Procurement Officer shall furnish a copy of the report to the appellant by certified mail, return receipt requested, and to any interested parties who have responded to the notice given pursuant to paragraph 6 above. The report shall contain copies of:
    - 1. The appeal;
    - 2. The request for proposal submitted by the appellant.
    - 3. The request for proposal of the firm that is being considered for award.
    - 4. The solicitation, including the specifications or portions relevant to the appeal;
    - 5. The abstract of proposals or relevant portions;
    - 6. Any other documents that are relevant to the protest; and,
    - 7. A statement by the Procurement Officer setting forth findings, actions, recommendations and any additional evidence or information necessary to determine the validity of the appeal.
  - B. Extension for filing of report. 1) The Procurement Officer may request in writing an extension of the time period setting forth the reason for extension. 2) The Court Administrator for General Jurisdiction Trial Court's determination on the request shall be in writing, state the reasons for the determination, and if an extension is granted, set forth a new date for the submission of the report. The Court Administrator for General Jurisdiction Trial Court shall notify the Procurement Officer and the appellant in writing that the time for the submission of the report has been extended and the date by which the report will be submitted.
  - C. Comments on the Report. 1) The appellant shall file comments on the Judicial Branch report with the Court Administrator for General Jurisdiction Trial Court within seven days after receipt of the report. Copies of comments shall be provided by appellant to the Procurement Officer of the Purchasing agency and other interested parties. 2) The Court Administrator for General Jurisdiction Trial Court may grant an extension on the time period to file comments pursuant to a written request made by the appellant within the period set forth in paragraph 5.1.5.10 stating the reason an extension is necessary. The Court Administrator for General Jurisdiction Trial Court's determination on the request shall be in writing, state the reasons for the determination, and if the extension is granted, set forth a new date for the filing of comments. The Court Administrator for General Jurisdiction Trial Court shall notify the Procurement Officer of any extension.
- 9. **Hearing. The hearing on appeal of request for proposal protest decisions shall be conducted as contested cases pursuant to these rules.** The Court Administrator for General Jurisdiction Trial Courts shall designate a Hearing Officer to hear the appeal. The Hearing Officer shall make recommended findings of fact and conclusions of law to the Court Administrator for General Jurisdiction Trial Court and the Court Administrator for General Jurisdiction Trial Courts shall render a final decision. The Hearing Officer shall make written recommendations to the

Court Administrator within 20 days of the final hearing date. The Court Administrator shall make a final decision with 20 days of the date it receives the Hearing Officers recommendations.

Remedies. If the Court Administrator for the General Jurisdiction Trial Court sustains the appeal in whole or part and determines that a solicitation, proposed award, or award does not comply with procurement statutes and regulations, remedies shall be implement pursuant to paragraph 6Cabove.